

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE PORK ANTITRUST LITIGATION

No. 0:18-cv-01776-JRT-HB

This Document Relates To:

COMMERCIAL AND INSTITUTIONAL
INDIRECT PURCHASER PLAINTIFF
ACTIONS

**COMMERCIAL AND INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS'
RESPONSE TO DEFENDANTS' MOTION FOR PROTECTIVE ORDER
CONCERNING EX PARTE LAWYER COMMUNICATIONS**

On October 15, 2019, Commercial and Institutional Indirect Purchaser Plaintiffs were served with a copy of Defendants' Motion for Protective Order Concerning Ex Parte Lawyer Communications ("Motion") via ECF. *See* ECF Nos. 374-80. While the Motion was filed in "All Actions" and asserts improper conduct on behalf of "Plaintiffs," the underlying facts arise from investigative conduct allegedly conducted by the Consumer Indirect Purchaser Plaintiffs.

The Commercial and Institutional Indirect Purchaser Plaintiffs do not have any involvement in the conduct complained of in the Motion. The Commercial and Institutional Indirect Purchaser Plaintiffs did not hire nor authorize the investigator who allegedly contacted a defense employee. (*See* Declaration of Blaine Finley, at ¶ 4.) No investigator or other person has contacted any current employee of a Defendant on behalf of the Commercial and Institutional Indirect Purchaser Plaintiffs in this case. (*Id.*)

Commercial and Institutional Indirect Purchaser Plaintiffs would have advised Defendants of these facts directly had they been given the opportunity to do so. However, in contravention of Local Rule 7.1(a), the Defendants did not contact Commercial and Institutional Indirect Purchaser Plaintiffs prior to the filing of the motion. (*See* Declaration of Blaine Finley, at ¶ 3.) Thus, Defendants' Meet and Confer Statement asserting compliance with Local Rule 7.1(a), which requires a meet and confer prior to the filing of a motion, is inaccurate. (*See* Dkt. No. 379.)

For the foregoing reasons, the Commercial and Institutional Indirect Purchaser Plaintiffs request that: (1) the Motion and supporting documents be withdrawn and amended to make clear that they are not directed at the Commercial and Institutional Indirect Purchaser Plaintiffs; and (2) the Court exclude the Commercial and Institutional Indirect Purchaser Plaintiffs from the scope of any order or relief arising from the Motion.

Dated: October 17, 2019

/s/ Blaine Finley

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